

SUMMARY REPORT OF INVESTIGATION¹

I. EXECUTIVE SUMMARY

Date of Incident:	February 14, 2016
Time of Incident:	8:55 pm
Location of Incident:	[REDACTED]
Date of COPA Notification:	February 15, 2016
Time of COPA Notification:	2:18 am

On February 14, 2016, [REDACTED] was arrested on signed complaints for failing to pay his tab at [REDACTED]'s Steakhouse. [REDACTED] was arrested by Sgt. [REDACTED] ("Sgt. [REDACTED]") and Officer [REDACTED] ("Officer [REDACTED]"). [REDACTED] was transported to the Chicago Police Department's [REDACTED] District station, where he was processed. He alleges that officers struck him while he was being processed, causing injury.

II. INVOLVED PARTIES

Involved Officer #1:	[REDACTED] Star # [REDACTED], Employee ID # [REDACTED] Date of Appointment: [REDACTED] 1992, Sergeant of Police, Unit [REDACTED] – District [REDACTED], DOB: [REDACTED] 1967, Male, White
Involved Officer #2:	[REDACTED], Star # [REDACTED], Employee ID # [REDACTED] Date of Appointment: [REDACTED], Police Officer, Unit [REDACTED] – District [REDACTED], DOB: [REDACTED] 1982, Male, White
Involved Individual #1:	[REDACTED] DOB: [REDACTED] 2016, Male, White

III. ALLEGATIONS

Officer	Allegation	Finding
[REDACTED]	1. It is alleged that on February 14, 2016, during the arrest of [REDACTED] at [REDACTED] Restaurant, [REDACTED] Sgt. [REDACTED] referred	Not Sustained

¹ On September 15, 2017, the Civilian Office of Police Accountability (COPA) replaced the Independent Police Review Authority (IPRA) as the civilian oversight agency of the Chicago Police Department. Therefore, this investigation, which began under IPRA, was transferred to COPA on September 15, 2017, and the recommendation(s) set forth herein are the recommendation(s) of COPA.

	to Mr. [REDACTED] as a “fuckin’ asshole” in violation of Rule 2, Rule 8, and Rule 9 of the Chicago Police Department Rules of Conduct.	
	2. It is alleged that on February 14, 2016, while in the processing area of the [REDACTED] District Station, [REDACTED] Sgt. [REDACTED] struck/punched Mr. [REDACTED] on the face with an elbow in violation of Rule 1, Rule 2, Rule 8, and Rule 9 of the Chicago Police Department Rules of Conduct.	Not Sustained
[REDACTED]	1. It is alleged that on February 14, 2016, during the arrest of [REDACTED] at [REDACTED] Restaurant, [REDACTED], Officer [REDACTED] referred to Mr. [REDACTED] as a “fuckin’ asshole” in violation of Rule 2, Rule 8, and Rule 9 of the Chicago Police Department Rules of Conduct.	Not Sustained
	2. It is alleged that on February 14, 2016, while in the processing area of the 01th District Station, [REDACTED], Officer [REDACTED] observed misconduct and failed to report it to a supervisor in violation of Rule 2, Rule 5, and Rule 10 of the Chicago Police Department Rules of Conduct.	Unfounded
	3. It is alleged that on February 14, 2016, while in the processing area of the [REDACTED] District Station, [REDACTED] Officer [REDACTED] stated to Mr. [REDACTED] “Why don’t you go fucking hang yourself” in violation of Rule 2, Rule 8, and Rule 9.	Not Sustained

IV. APPLICABLE RULES AND LAWS

Rules

1. **Rule 1** – Violation of any law or ordinance.
2. **Rule 2** – Any action or conduct which impedes the Department’s efforts to achieve its

policy and goals or brings discredit upon the Department.

3. **Rule 8** – Disrespect to or maltreatment of any person, while on or off duty.

4. **Rule 9** – Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.

5. **Rule 10** – Inattention to duty.

General Orders

1. **GO 01-01 Mission Statement and Core Values**

2. **GO 03-02 Use of Force**

3. **GO 06-01 Processing Persons under Department Control**

V. INVESTIGATION²

a. Interviews

██████████ (██████████) gave a recorded interview to IPRA on June 29, 2016. In his statement, ██████████ stated he was shopping with his girlfriend on February 14, 2016, and they went to have dinner at ██████████'s Steakhouse at ██████████. ██████████ stated that at some point he received his tab and he was unhappy with the price. ██████████ stated he spoke with a server and asked to speak to a manager about his bill. ██████████ then stated he spoke to the manager and reluctantly gave the manager his credit card to pay his tab. ██████████ stated he was angry. ██████████ stated he was not threatening the manager nor acting in a violent manner. ██████████ stated he was not okay with the price of what he was being charged, and the next thing he knew, two police officers showed up to ██████████'s Steakhouse. ██████████ stated he was absolutely intoxicated, but in a happy mood prior to the police arriving. ██████████ stated the officers asked him to step outside and ██████████ said it was "absolutely ridiculous."³ ██████████ then stated the officers told him he had to pay his bill, to which ██████████ responded he already had. ██████████ stated he tried to show the officers that he paid his bill on his phone because he received an automatic notification on his phone that he paid his bill. ██████████ stated the officers refused to look at his phone, and ██████████ told the officers that the situation was "absolute BS."⁴ ██████████ then stated the officers told him he needed to get in the back of their car and he and the officers got into a verbal argument over him paying the bill. ██████████ stated he told officers he was going to dispute the bill because he did not believe the charge was reasonable. ██████████ stated he was never confrontational with the officers, and he respected their authority. ██████████ stated the officers accused him of being a thief and not

² COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

³ Attachment 28, pg. 4, line 9.

⁴ Attachment 28, pg. 4, line 16.

paying his bill, which [REDACTED] denied. [REDACTED] then stated the officers placed him under arrest, despite him already paying his bill.

[REDACTED] stated he was placed into handcuffs and escorted into a Chicago police station. [REDACTED] stated he said something like, "are you, your, are you fucking serious. You're arresting me. I didn't do anything wrong."⁵ [REDACTED] stated the officers then called him a "fuckin' asshole."⁶ [REDACTED] stated he was talking back and forth with the officers the entire time while being escorted to the station located at [REDACTED]. [REDACTED] stated he was transported by the two officers from [REDACTED]'s Steakhouse to the [REDACTED] District. [REDACTED] stated he did not know at what point he was handcuffed but he stated he knew he was handcuffed when the officers were trying to sit him on the bench.

[REDACTED] then stated at the station, the shorter of the two officers, identified as Sgt. [REDACTED] told him to remove his belt. [REDACTED] stated he told the officers he could not remove his belt because he was handcuffed. [REDACTED] stated Sgt. [REDACTED] then told him he was going to remove the belt or he would cut it off him. [REDACTED] stated he once again asked how he could remove his belt if he was handcuffed, at which point Sgt. [REDACTED] delivered an elbow strike with his left elbow about the right side of [REDACTED]'s face. [REDACTED] later stated the strike could have been a punch, or multiple punches and elbow strikes. [REDACTED] stated he suffered bruising all along the side of his face and his eye was closed shut. [REDACTED] stated he was absolutely upset and wanted to talk to internal affairs or a supervisor. [REDACTED] stated one of the officers' supervisor came over and explained what happened, and [REDACTED] responded that one of their officers assaulted him and he wanted to file charges against the officer. [REDACTED] stated he never touched an officer nor assaulted an officer. [REDACTED] further stated an officer removed his belt and his possessions. [REDACTED] stated an officer may have stated "why don't you fuckin' hang yourself" to him, but he could not recall which officer did.⁷

[REDACTED] stated he was notified he was being charged for theft a few hours later. [REDACTED] stated he was also charged with battery against a police officer. [REDACTED] stated he believed he was charged with battery against a police officer out of retaliation for seeking a discipline for Sgt. [REDACTED]. [REDACTED] also stated he was never Mirandized during his arrest or after. [REDACTED] stated his wrists were bloody from being in handcuffs for so long. [REDACTED] described his booking photo and stated his eyes were visibly bloody and red, and his skin had multiple abrasions on it. [REDACTED] stated he did not seek medical attention for his injuries, and he never felt like he had any broken bones. [REDACTED] stated he learned the arresting officers had an IPRA complaint initiated against them when he was released from the [REDACTED] District.⁸

[REDACTED] gave a recorded interview to IPRA on November 16, 2016. In her statement, [REDACTED] stated she was a server at [REDACTED]'s Steakhouse and worked the night of February 14, 2016. [REDACTED] stated she recalled [REDACTED] entering [REDACTED]'s Steakhouse with two women the night of February 14, 2016. [REDACTED] stated [REDACTED] did not appear overly intoxicated. [REDACTED] stated the girls were in a good mood and [REDACTED] appeared to be distracted by the band.

⁵ Attachment 28, pg. 21 line 30-32.

⁶ Attachment 28, pg. 22 line 1-3.

⁷ Attachment 28, pg. 46 line 9-15.

⁸ Attachment 28.

█████ stated █████ and the two girls were sitting right at the piano. █████ stated that one of the girls wanted █████ to order a bottle of the most expensive champagne, and █████ did so. █████ then stated █████ bought another bottle of the champagne for the band. █████ stated that █████ ordered a third bottle of the champagne. █████ stated three bottles of the champagne cost roughly \$2,700. █████ stated █████ also ordered █████ and a seafood tower in addition to the champagne. █████ stated █████ appeared to become obnoxious and he tipped the band a lot of money. █████ stated that on break she overheard the band say █████ was being very rude to the two women with him. █████ stated the two women went to the coat check, and █████ appeared to get upset. █████ stated the two women left █████'s Steakhouse without █████, prior to █████ receiving his bill. █████ then stated █████ gave her his credit card to pay for his bill. █████ stated █████ received an alert on his phone of the amount charged to his account, and he stated he would not pay his bill. █████ stated his account was still charged and the charge went through, but █████ did not sign the bill. █████ stated █████ became really upset and stated he was not going to pay the bill. █████ stated that although the charge went through, █████ never signed for it and never paid his bill. █████ stated that her manager, █████ ("█████"), got involved and that ended her involvement with █████. █████ stated that █████ stood up and argued with █████, and █████ told █████ he was going to call the police. █████ stated █████ did not have marks and bruises on his face at █████'s Steakhouse. █████ stated police arrived at █████'s Steakhouse, but she was not paying attention to the officers' interaction with █████ so she did not see any of the officers' interaction with him.⁹

Detention Aide █████ ("DA █████") gave a recorded interview to IPRA on January 9, 2017. In his statement to IPRA, DA █████ stated that on February 14, 2016, he was on duty in the male lock up of the █████ District. DA █████ stated he was working with Officer █████ that day and his shift was from 10 pm to 6 am. DA █████ stated he barely recalled █████, but believed █████ did not give him any problems while in lockup. DA █████ stated he recalled █████ was brought in for not paying his bill. DA █████ stated █████ refused medical treatment. DA █████ stated that █████ looked injured according to █████'s booking photograph, but DA █████ also stated that he would be processed if he refused medical treatment.¹⁰

Police Officer █████ #█████ ("Officer █████") gave a digitally recorded interview to IPRA on January 9, 2017. In his statement, Officer █████ stated he was working on duty in the men's lockup in the █████ District on the date of the alleged incident. Officer █████ stated he was working with DA █████ that evening. Officer █████ stated he did not recall █████. Officer █████ stated that depending on the situation, officers can call an ambulance before accepting an individual into lockup or processing the individual.¹¹

Police Officer █████ #█████ ("Officer █████") gave a recorded interview to IPRA on January 9, 2017. In his statement, Officer █████ stated he was working Beat █████ on February 14, 2016. Officer █████ stated he was working with Officer █████ that day. Officer █████ stated he was instructed to assist with an arrest by Sgt. █████. Officer █████ stated he was

⁹ Attachment 38.

¹⁰ Attachment 48.

¹¹ Attachment 49.

given the instruction after roll call at the [REDACTED] District. Officer [REDACTED] stated his partner, Officer [REDACTED] was already at the District, as he was running late. Officer [REDACTED] stated he entered the processing room and he was told by Officer [REDACTED] that [REDACTED] needed to be processed for failing to pay his bill. Officer [REDACTED] stated he was told to complete the arrest report by Officer [REDACTED] and he authored [REDACTED]'s Arrest Report. Officer [REDACTED] stated he did not have any physical contact with [REDACTED]. Officer [REDACTED] stated he saw [REDACTED] when he walked to lockup with Officer [REDACTED]. Officer [REDACTED] stated [REDACTED] did not appear as red as he did in the booking photo when he was taken into lockup. Officer [REDACTED] stated [REDACTED] never mentioned being punched in the face or hit in the face by any officers. Officer [REDACTED] stated [REDACTED] had one arm handcuffed to a pole in the processing room. Officer [REDACTED] stated he was told by Sgt. [REDACTED] to add a charge of battery to [REDACTED]'s Arrest Report. Officer [REDACTED] stated that Sgt. [REDACTED] told him that [REDACTED] had grabbed Sgt. [REDACTED] by the vest and pulled him towards him. Officer [REDACTED] stated he did not see [REDACTED] pull Sgt. [REDACTED] as he was writing the Arrest Report at a computer, nor did he ever see an officer enter [REDACTED]'s cell. Officer [REDACTED] stated he never heard a commotion coming from [REDACTED]'s cell. Officer [REDACTED] stated he spoke with [REDACTED] after Sgt. [REDACTED] told him to add the charge, and he Mirandized [REDACTED]. Officer [REDACTED] stated he asked [REDACTED] why he didn't just pay the bill. Officer [REDACTED] stated that [REDACTED] became irate and was screaming and cursing at him. Officer [REDACTED] stated [REDACTED] appeared to be intoxicated and slurred his speech. Officer [REDACTED] stated [REDACTED] never said anything about Sgt. [REDACTED] attacking him. Officer [REDACTED] stated he never heard Sgt. [REDACTED] or Officer [REDACTED] say, "Why don't you fucking hang yourself," to [REDACTED].¹²

Accused Police Officer [REDACTED] # [REDACTED] ("Officer [REDACTED]") gave a recorded interview to IPRA on December 12, 2016. Officer [REDACTED] stated that on February 14, 2016, he was working on duty as Beat [REDACTED]. Officer [REDACTED] stated he was working with his sergeant at the time, Sgt. [REDACTED]. Officer [REDACTED] stated his regular partner was on medical or on furlough the day of the alleged incident. Officer [REDACTED] stated OEMC dispatched him and Sgt. [REDACTED] to [REDACTED]'s Steakhouse for a man who failed to pay his bar or restaurant tab. Officer [REDACTED] stated when he and Sgt. [REDACTED] arrived to [REDACTED]'s Steakhouse, they spoke to two managers and a security guard working at the steakhouse, and they told the officers they wanted to sign complaints against [REDACTED] and want him arrested for running a tab to more than \$3,000 and refusing to pay it. Officer [REDACTED] stated [REDACTED] never told him that he paid his bill, nor did he show the officers a receipt for his purchase. Officer [REDACTED] stated he did not believe he spoke with [REDACTED] but Sgt. [REDACTED] did. Officer [REDACTED] stated that while Sgt. [REDACTED] was talking to [REDACTED], either he or Sgt. [REDACTED] put handcuffs on [REDACTED] and placed him in the back of squad car for transport. Officer [REDACTED] stated [REDACTED] was angry and irate. Officer [REDACTED] stated [REDACTED]'s mannerisms seemed agitated and he appeared to be intoxicated. Officer [REDACTED] stated [REDACTED] had bloodshot eyes, blushed reddish skin, spoke with a slurred speech, and was unstable on his feet. Officer [REDACTED] stated [REDACTED] stated he was with two other women, and a third woman, but they left prior to the officers arriving. Officer [REDACTED] stated he and Sgt. [REDACTED] then transported [REDACTED] to the [REDACTED] District Station. Officer [REDACTED] stated [REDACTED] was searched prior to entering their vehicle, and his items were later inventoried. Officer [REDACTED] stated he did not recall ever calling [REDACTED] a "fucking asshole" but [REDACTED] may have referred to himself as such.¹³ Officer [REDACTED] then stated it took less than ten minutes to reach the [REDACTED] District, and [REDACTED] was quiet in the car.

¹² Attachment 50.

¹³ Attachment 47, Pg. 11, line 10-13.

Officer [REDACTED] stated that [REDACTED] still looked very flushed, was wobbly on his feet, and had bloodshot eyes when he was taken out of the vehicle. Officer [REDACTED] stated [REDACTED] was then placed in a bullpen area at the station, and he had his left hand handcuffed to a bar along the wall of the bullpen area, and his right arm was free. Officer [REDACTED] stated he handcuffed [REDACTED] to the wall while Sgt. [REDACTED] was getting prisoner property inventory bags. Officer [REDACTED] stated that [REDACTED] became verbally abusive to him and Sgt. [REDACTED] and threatened them with litigation and taking their homes away. Officer [REDACTED] stated he and Sgt. [REDACTED] then explained to [REDACTED] why he was being arrested, and they were not there to judge him, and to work with the officers while they process his arrest. Officer [REDACTED] then stated he asked [REDACTED] to remove his belt and shoelaces at which time [REDACTED] responded, "You can remove the fuckin' belt from me."¹⁴ Officer [REDACTED] stated [REDACTED] had one arm free and could remove his belt without assistance. Officer [REDACTED] stated he once again asked [REDACTED] to remove his belt, so he could place it in the prisoner property bag. Officer [REDACTED] then stated [REDACTED] became more belligerent and reached up and grabbed Sgt. [REDACTED] by either the top of his vest or inside his vest and pulled Sgt. [REDACTED] towards him.

Officer [REDACTED] stated [REDACTED] was still sitting when he grabbed Sgt. [REDACTED]. Officer [REDACTED] then stated Sgt. [REDACTED] delivered a forearm push to [REDACTED]'s chest to push him away. Officer [REDACTED] stated he then told [REDACTED] not to fight the officers, and that they just needed to remove his belt. Officer [REDACTED] stated Sgt. [REDACTED] held [REDACTED] back with his forearm, while he removed [REDACTED]'s belt. Officer [REDACTED] stated after [REDACTED]'s belt was removed, he and Sgt. [REDACTED] notified Lieutenant [REDACTED] ("Lt. [REDACTED]"), who was on scene regarding Sgt. [REDACTED]'s use of force. Officer [REDACTED] stated he believed Sgt. [REDACTED] spoke with Lt. [REDACTED] after his use of force, but Officer [REDACTED] did not speak to another supervisor about the incident. Officer [REDACTED] stated he did not believe Sgt. [REDACTED]'s actions were in any way excessive. Officer [REDACTED] stated they offered [REDACTED] medical attention, but he declined. Officer [REDACTED] was shown [REDACTED]'s mugshot photos, and Officer [REDACTED] stated [REDACTED]'s face looked like when the officers arrived, and Sgt. [REDACTED] did not cause the injuries to [REDACTED]'s face. Officer [REDACTED] stated he had no idea how [REDACTED]'s face got so red prior to the officers arriving. Officer [REDACTED] stated that [REDACTED] was in the bullpen alone at some point and could have inflicted the injuries to his own face. Officer [REDACTED] stated he did not recall if he or Sgt. [REDACTED] told [REDACTED], "Why don't you go fucking hang yourself?"¹⁵ Officer [REDACTED] stated he never heard [REDACTED] complain about anyone striking him in the face. Officer [REDACTED] stated he believed [REDACTED] was involved in an altercation two hours before his arrest at [REDACTED]'s Steakhouse. Officer [REDACTED] stated he learned [REDACTED] paid his bill at his court date, approximately four months later.¹⁶

Accused Sergeant of Police [REDACTED] # [REDACTED] gave a recorded interview to IPRA on February 1, 2017. In his statement, Sgt. [REDACTED] stated he was assigned to the entertainment venue team on February 14, 2016. Sgt. [REDACTED] stated he was working alone as a Sergeant that day. Sgt. [REDACTED] stated he was requested to [REDACTED]'s Steakhouse due to an unruly patron who was refusing to pay his bill. Sgt. [REDACTED] stated when he arrived [REDACTED]'s Steakhouse, he observed [REDACTED] creating a disturbance by the piano bar, and being verbally abusive to the

¹⁴ Attachment 47, pg. 15, line 22-23.

¹⁵ Attachment 47, pg. 26, line 7-13.

¹⁶ Attachment 47.

staff. Sgt. [REDACTED] stated he spoke to the general manager of the steakhouse, and the general manager told him that [REDACTED] refused to pay his bill. Sgt. [REDACTED] stated he then told [REDACTED] to calm down as he was creating a scene. Sgt. [REDACTED] stated he asked [REDACTED] if he was going to pay for his tab, to which [REDACTED] responded, "Fuck no. They're overcharging me."¹⁷ Sgt. [REDACTED] stated he asked the management at the steakhouse if he had paid his bill, was going to, or was given any bill, and they responded in the negative. Sgt. [REDACTED] stated that he learned that the steakhouse ran his card after [REDACTED] was already in custody at the station. Sgt. [REDACTED] stated [REDACTED] was highly intoxicated, and at some point, at the steakhouse he passed out at the piano bar, and had his head down on the bar. Sgt. [REDACTED] stated [REDACTED] was with two females at the steakhouse, but they apparently left when [REDACTED] passed out at the piano bar. Sgt. [REDACTED] stated [REDACTED] walked "real wobbly."¹⁸ Sgt. [REDACTED] stated [REDACTED] smelled of alcohol, had slurred speech, was extremely loud, and had bloodshot eyes. Sgt. [REDACTED] stated that he and Officer [REDACTED] placed [REDACTED] into handcuffs and put him in the back of Officer [REDACTED]'s car. Sgt. [REDACTED] stated he never called [REDACTED] a "fucking asshole." Sgt. [REDACTED] stated he and Officer [REDACTED] transported [REDACTED] to the [REDACTED] District.

Sgt. [REDACTED] stated [REDACTED] was placed into a holding cell at the station. Sgt. [REDACTED] stated [REDACTED]'s handcuffs were removed when he was placed into the holding cell. Sgt. [REDACTED] stated [REDACTED] was told to take off his belt and any personal items out of his pockets. Sgt. [REDACTED] stated [REDACTED] refused to remove his belt and said something to the effect of, "Fuck you. You take it off."¹⁹ Sgt. [REDACTED] stated he did not say anything back to [REDACTED] and he did not recall what Officer [REDACTED] said to [REDACTED]. Sgt. [REDACTED] then stated they once again asked [REDACTED] to take his belt off, and [REDACTED] again refused. Sgt. [REDACTED] stated he then moved closer to take the belt off [REDACTED], and [REDACTED] reached up at his shoulder epaulettes, on top of his vest, grabbed it, and pulled Sgt. [REDACTED] towards himself. Sgt. [REDACTED] stated he then pushed [REDACTED] about the upper chest with his forearm and held [REDACTED] against the holding cell wall. Sgt. [REDACTED] stated he then asked Officer [REDACTED] to remove [REDACTED]'s belt from his person. Sgt. [REDACTED] stated [REDACTED] was sitting down when he grabbed him. Sgt. [REDACTED] stated they needed to remove [REDACTED]'s belt to prevent [REDACTED] from hanging himself with his belt. Sgt. [REDACTED] stated that once [REDACTED]'s belt was removed, he and Officer [REDACTED] left the holding cell, closed the door, and began paperwork. Sgt. [REDACTED] stated he informed Lt. [REDACTED] that he would complete a TRR for his contact with [REDACTED]. Sgt. [REDACTED] was shown [REDACTED]'s booking photo, and stated he could not explain the contusions to [REDACTED]'s face. Sgt. [REDACTED] stated he did not have any more contact with [REDACTED]. Sgt. [REDACTED] stated he never heard Officer [REDACTED] state, "Why don't you go fucking hang yourself," and he never said that statement either. Sgt. [REDACTED] stated he never hit [REDACTED] in the eye with his elbow. Sgt. [REDACTED] stated he believed the force he used was justified in that he only held [REDACTED] against the cell wall, so Officer [REDACTED] could remove [REDACTED]'s belt. Sgt. [REDACTED] stated that he would have been justified in punching [REDACTED], as [REDACTED] was grabbing him.²⁰

b. Digital Evidence

¹⁷ Attachment 53, pg. 9, line 5-6.

¹⁸ Attachment 53, pg. 24, line 16.

¹⁹ Attachment 53, pg. 14, line 19-20.

²⁰ Attachment 53.

IPRA attempted to retrieve surveillance footage from [REDACTED]'s Steakhouse, however no original video from the date of the incident existed.²¹

Mugshots of [REDACTED], IR No. [REDACTED], show bruising and redness to Mr. [REDACTED]'s face.²²

Surveillance footage from CPD's [REDACTED] District Processing Area recorded the location where the alleged incident occurred. The surveillance video footage does not contain audio. [REDACTED] is not captured anywhere on the video.²⁹

c. Documentary Evidence

An Initiation of Complaint Report, from Sgt. [REDACTED] # [REDACTED] was sent to Commander [REDACTED]. The report lists the allegations as excessive force – punched complainant in eye and verbal abuse. The report lists the complainant as [REDACTED]. The report lists the date and time of the incident as February 14, 2016, at approximately 8:55 pm. The report lists the location of the alleged incident as [REDACTED] – Processing Room. The report lists the accused as [REDACTED] and Officer [REDACTED]. The report continues with a brief narrative which reads as follows:

Complainant states that he was arrested at [REDACTED] by the above listed officers and when he was in the cell in the processing room, the "little one punched me in the eye and the head several times and the big one laughed while the little one punched me and said "Why don't you go fucking hang yourself."³⁰

An Arrest Report, CB # [REDACTED], details [REDACTED]'s arrest. The report states that [REDACTED] was arrested on February 14, 2016 at 8:11 pm. The report further states that [REDACTED] was arrested at [REDACTED]. The report lists the offenses as Battery – Make Physical Contact, 720 ILCS 5.0/12-3-A-2 and Theft/Unauthorized Con/\$500, 720 ILCS 5.0/16-1-A-1. The report lists the victims as [REDACTED] and Sgt. [REDACTED]. The report lists the arresting officers as Officer [REDACTED] # [REDACTED] and Sgt. [REDACTED] # [REDACTED]. The narrative section of the report states that Mr. [REDACTED] was arrested on signed complaints in that he refused to pay a tab of \$ [REDACTED] at the [REDACTED]'s Steakhouse restaurant. The report states that Mr. [REDACTED] told the complainant, [REDACTED], several times that he was not going to pay his bill. The narrative continues and states that Mr. [REDACTED] was placed into custody and transported to the [REDACTED] District for processing. The report then states that while Mr. [REDACTED] was in the processing room, he became highly irate and became uncooperative at which time Mr. [REDACTED] grabbed onto Sgt. [REDACTED]'s left shoulder and pulled Sgt. [REDACTED] towards him. The narrative states that Mr. [REDACTED] told Officers that he was not sure if he ordered three or four bottles, but he was not willing to pay his tab. The report notes that Mr. [REDACTED] visually appeared under the influence of alcohol or drugs. The report also contains an added remark which states "Has Been Drinking."³¹

²¹ Attachment 14.

²² Attachment 8.

²⁹ Attachment 60.

³⁰ Attachment 4.

³¹ Attachment 7.

Property Inventory Logs # [REDACTED], # [REDACTED], # [REDACTED], and # [REDACTED] document the items seized during Mr. [REDACTED]'s arrest. The log # [REDACTED] lists that a bundle of U.S. currency in the amount of \$ [REDACTED] was taken and inventoried. The log # [REDACTED] lists that a black wallet containing miscellaneous identification, a black/gray colored scarf, and a black cellular phone were taken and inventoried. The log # [REDACTED] lists that a yellow and white colored metal watch was taken and inventoried. The log # [REDACTED] lists that a receipt from "[REDACTED]'s Steakhouse" was taken and inventoried. The logs list the date that the currency was recovered as February 14th, 2016. The logs list the associated RD # as [REDACTED]. The log lists the charges as 0180, Theft Over \$500. The logs list the owner of the inventoried items as [REDACTED]. The logs then list Officers who found the items as Officer [REDACTED] and Sgt. [REDACTED].³²

An **Original Case Incident Report**, RD # [REDACTED], documents [REDACTED]'s arrest. The report notes the violation as 0454 – Battery – Agg Po Hands No/Min Injury and 0810 – Theft – Over \$500, with the occurrence location listed as [REDACTED], and the occurrence date and time listed as 14 February 2016 at 8:11 pm. The report lists the suspect as [REDACTED]. The report narrative states that officers responded to a disturbance at the [REDACTED]'s Restaurant for a patron refusing to pay his tab. The narrative continues and states that the victim, [REDACTED], wanted to sign complaint on [REDACTED] for failing to pay his tab of \$ [REDACTED]. The narrative then states that [REDACTED] was placed into custody and taken to the [REDACTED] District for processing. The narrative continues and states that while in processing, [REDACTED] refused to take off his belt and with his free right hand he grabbed Sgt. [REDACTED]'s left shoulder pulling Sgt. [REDACTED] towards him. The narrative then states that Sgt. [REDACTED] struck [REDACTED] about the stomach with a forearm and held [REDACTED] down while Officer [REDACTED] took off [REDACTED]'s belt. The narrative states that a Tactical Response Report was completed by Sgt. [REDACTED] for his use of force against [REDACTED]. The report lists officers involved as Officer [REDACTED], Sgt. [REDACTED], and Officer [REDACTED].³³

A **Tactical Response Report ("TRR")** completed by Sgt. [REDACTED] documents his use of force against [REDACTED]. The TRR lists the date of the incident as February 14th, 2016 and the time as 8:55 pm. The TRR lists the address of the occurrence as [REDACTED]. The TRR lists the subject as [REDACTED]. The TRR lists [REDACTED]'s actions as "Did Not Follow Verbal Direction," "Stiffened (Dead Weight)," and "Grabbed Officer's Arm." Sgt. [REDACTED]'s actions are listed as "Member Presence," "Verbal Commands," and "Forearm to Chest." The TRR also contains a statement from [REDACTED] regarding the use of force which states, "The offender stated, not verbatim, that he was unhappy over the arrest by the police after the restaurant had him arrested." Lt. [REDACTED] marked that Sgt. [REDACTED]'s actions were in compliance with the Department's procedures and directives, but Log #1079242 was generated because of [REDACTED]'s complaints.³⁴

³² Attachment 10.

³³ Attachment 6.

³⁴ Attachment 9.

d. Additional Evidence

IPRA attempted to speak with the manager of ██████'s Steakhouse at the time of the incident and the complaining witness and victim on ██████'s arrest report, ██████, and obtain his notes from the date of the alleged incident. IPRA was informed by the ██████'s Steakhouse manager ██████ that as of October 19, 2016, ██████ was no longer employed at ██████ Steakhouse, and no paperwork was able to be found regarding the incident involving ██████.

VI. LEGAL STANDARD

For each Allegation COPA must make one of the following findings:

1. Sustained - where it is determined the allegation is supported by a preponderance of the evidence;
2. Not Sustained - where it is determined there is insufficient evidence to prove the allegations by a preponderance of the evidence;
3. Unfounded - where it is determined by clear and convincing evidence that an allegation is false or not factual; or
4. Exonerated - where it is determined by clear and convincing evidence that the conduct described in the allegation occurred, but it is lawful and proper.

A **preponderance of evidence** can be described as evidence indicating that it is **more likely than not** that the conduct occurred and violated Department policy. See *Avery v. State Farm Mutual Automobile Insurance Co.*, 216 Ill. 2d 100, 191 (2005), (a proposition is proved by a preponderance of the evidence when it has found to be more probably true than not). If the evidence gathered in an investigation establishes that it is more likely that the misconduct occurred, even if by a narrow margin, then the preponderance of the evidence standard is met.

Clear and convincing evidence is a higher standard than a preponderance of the evidence but lower than the "beyond-a-reasonable doubt" standard required to convict a person of a criminal offense. See e.g., *People v. Coan*, 2016 IL App (2d) 151036 (2016). Clear and Convincing can be defined as a "degree of proof, which, considering all the evidence in the case, produces the firm and abiding belief that it is highly probable that the proposition . . . is true." *Id.* at ¶ 28.

VII. ANALYSIS

³⁵ Attachment 33 and Attachment 34.

█████ alleged that on February 14, 2016, at approximately 8:55 pm, he was struck about the face by Sgt. █████. █████ further alleged that Sgt. █████ and Officer █████ referred to him as a “fuckin’ asshole,” and that while he was in the █████ District processing area, he was told by Officer █████, “Why don’t you go fucking hang yourself.” COPA’s burden of proof is based on the preponderance of the evidence standard.

In his statement to IPRA, █████ alleged that both Sgt. █████ and Officer █████ called him a “fuckin’ asshole” during his arrest. Sgt. █████ and Officer █████ both denied making that statement to █████, and ultimately there is not enough evidence to establish whether the officers made that statement to █████. As such, COPA recommends a finding of Not Sustained for Allegation #1 for Sgt. █████ and Allegation #1 for Officer █████.

According to General Order (“GO”) 03-02-01, the Chicago Police Department utilizes a Use of Force Model to provide guidance on the appropriate amount of force to be used to affect a lawful purpose.³⁶ The model may progress from member presence to the application of deadly force. The primary objective of the use of force is to ensure control of a subject with the reasonable force necessary based on the totality of the circumstances. Department members must escalate or de-escalate the amount of force which is reasonably necessary to overcome the subject’s resistance and to gain control over the subject.

GO 03-02-01 and GO 03-02-02 identify three categories of an assailant: A subject whose actions are aggressively offensive without weapons, a subject whose actions will likely cause physical injury with or without a deadly weapon, and a subject whose actions will likely cause death or serious physical injuries. GO 03-02-02 defines an assailant as “a subject who is using or threatening the imminent use of force against himself/herself or another person.”

According to GO 03-02-01, direct mechanical techniques are forceful, concentrated striking movements such as punching and kicking, or focused pressure strikes and pressures. Direct mechanical techniques may be used only against assailants.

In addition to CPD’s General Orders, the authorization to use of force is codified under 720 ILCS 5/7-5 (1986). The pertinent part of the statute states that:

“[a] peace officer, or any person whom he has summoned or directed to assist him, need not retreat or desist from efforts to make a lawful arrest because of resistance or threatened resistance to the arrest. He is justified in the use of any force which he reasonably believes to be necessary to effect the arrest and of any force which he reasonably believes to be necessary to defend himself or another from bodily harm while making the arrest. However, he is justified in using force likely to cause death or great bodily harm only when he reasonably believes that such force is necessary to prevent death or great bodily harm to himself or such other person...”

³⁶ General Order G03-02 ‘Use of Force Guidelines’ effective 01 October 2002 governs Sgt. █████’s conduct in this matter as it was effective on February 14, 2016. A new Use of Force model was enacted over the course of this investigation and is effective as of 16 October 2017. For the purposes of this investigation, G03-02 effective 01 October 2002 will be used.

Finally, determinations regarding the potential use of excessive force - deadly or not - in the course of an arrest, investigatory stop, or other “seizure” are properly analyzed under the Fourth Amendment's objective reasonableness standard. The question is whether the officers' actions are ‘objectively reasonable’ in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation. *Graham v. Connor*, 490 U.S. 386, 397 (1989); see *Estate of Phillips v. City of Milwaukee*, 123 F.3d 586, 592 (7th Cir. 2003). Moreover, the reasonableness calculation “must embody allowance for the fact that police officers are often forced to make split-second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation.” *Graham*, at 396–97.

The question is whether the officer’s actions are objectively reasonable in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation. *Graham v. Connor*, 490 U.S. 386, 397 (1989); see *Estate of Phillips v. City of Milwaukee*, 123 F.3d 586, 592 (7th Cir. 2003). The following factors are instructive in making the determination of whether an officer’s use of force is reasonable: (1) “the severity of the crime at issue;” (2) “whether the suspect poses an immediate threat to the safety of the officers or others;” and (3) “whether he is actively resisting arrest or attempting to evade arrest by flight.” *Graham*, 490 U.S. at 396 (citing *Tennessee v. Garner*, 471 U.S. 1, 8-9 (1985)). The analysis of the reasonableness of an officer’s actions must be grounded in the perspective of “a reasonable officer on the scene, rather than with the 20/20 vision of hindsight” and “allow for the fact that police officers are often forced to make split-second judgments – in circumstances that are tense, uncertain, and rapidly evolving – about the amount of force that is necessary in a particular situation.” *Plumhoff v. Rickard*, 134 S. Ct. 2012 (2014) (internal quotations and citation omitted). The analysis must take into account the totality of the circumstances confronting the officer, rather than just one or two factors. *Plumhoff*, 134 S. Ct. at 2020; see also *Scott v. Edinburg*, 346 F.3d 752, 756 (7th Cir. 2003)

While [REDACTED] stated he was struck about the face by Sgt. [REDACTED] both Officer [REDACTED] and Sgt. [REDACTED] denied that allegation. Both Officer [REDACTED] and Sgt. [REDACTED] stated that Sgt. [REDACTED] pushed [REDACTED]’s upper chest and held him against the cell wall with his forearm. The officers stated Sgt. [REDACTED] used force only after [REDACTED] grabbed Sgt. [REDACTED] and pulled him close.³⁷ The officers’ statements were further corroborated by Sgt. [REDACTED]’s TRR, which states Sgt. [REDACTED] used his forearm against [REDACTED]’s chest. Officer [REDACTED] also stated that [REDACTED] appeared very flush and had bloodshot eyes and reddish skin. [REDACTED] provided IPRA with photos of his alleged injuries, however, it is not clear how [REDACTED] sustained those injuries, or if it was a result of Officer [REDACTED] or Sgt. [REDACTED]’s actions. COPA finds there is a lack of corroborative material evidence to sustain [REDACTED]’s allegation, and as such finds Allegation #2 for Sgt. [REDACTED] is Not Sustained.

As misconduct may have occurred and Officer [REDACTED] did not report any incident of misconduct, IPRA brought an allegation for failing to report the possible misconduct that

³⁷ Per GO-03-02-01, [REDACTED] would be defined by as an assailant, as his action, in grabbing Sgt. [REDACTED], was aggressively offensive, or likely to cause injury to Sgt. [REDACTED]. Assuming *arguendo*, as [REDACTED] was an assailant in that moment, if Sgt. [REDACTED] used force such as punches or elbow strikes, it would have been within policy as codified by GO-03-02-01.

occurred on February 14, 2016. Officer [REDACTED] stated in his statement to IPRA that he did not believe Sgt. [REDACTED]'s action were in any way excessive, and thus did not believe they were in violation of CPD policy. Moreover, even if Officer [REDACTED] witnessed Sgt. [REDACTED] strike [REDACTED], as mentioned previously, that would not have risen to the level of misconduct, and therefore Officer [REDACTED] would not have had to report it. As such, COPA finds Allegation # 2 for Officer [REDACTED] be Unfounded.

[REDACTED] further alleged that an officer may have told him "Why don't you go fuckin' hang yourself" though he could not recall which officer did. Officer [REDACTED] stated he did not recall if any officers stated that to [REDACTED]. Sgt. [REDACTED] also stated neither he nor Officer [REDACTED] ever said that statement to [REDACTED]. Officer [REDACTED] who was completing the Arrest Report for [REDACTED]'s arrest, stated he never heard Officer [REDACTED] or Sgt. [REDACTED] make that statement to [REDACTED]. As [REDACTED] stated an officer *may* have stated that, and was not completely positive, coupled with the fact that three officers stated they did not recall that statement being made or that the statement was definitely not made, COPA finds there to be a lack of material corroborative evidence, and as such Allegation #3 for Officer [REDACTED] be Not Sustained.

VIII. CONCLUSION

Based on the analysis set forth above, COPA makes the following findings:

Allegation	Finding
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1. It is alleged that on February 14, 2016, during the arrest of [REDACTED] at [REDACTED] Restaurant, [REDACTED] Sgt. [REDACTED] referred to Mr. [REDACTED] as a "fuckin' asshole."	Not Sustained
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2. It is alleged that on February 14, 2016, while in the processing area of the [REDACTED] District Station, [REDACTED] Sgt. [REDACTED] struck/punched Mr. [REDACTED] on the face with an elbow.	Not Sustained
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Allegation	Finding
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1. It is alleged that on February 14, 2016, during the arrest of [REDACTED] at [REDACTED] Restaurant, [REDACTED] Officer [REDACTED] referred to Mr. [REDACTED] as a "fuckin' asshole."	Not Sustained
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2. It is alleged that on February 14, 2016, while in the processing area of the [REDACTED] District Station, [REDACTED] Officer [REDACTED] observed misconduct and failed to report it to a supervisor.	Unfounded
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3. It is alleged that on February 14, 2016, while in the processing area of the [REDACTED] District Station, [REDACTED] Officer [REDACTED] stated to Mr. [REDACTED] "Why don't you go	Not Sustained
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fucking hang yourself.”	
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Approved:



3-26-19

Date

Deputy Chief Administrator

Appendix A

Assigned Investigative Staff

Squad #:**Investigator:****Supervising Investigator:****Deputy Chief Administrator:**